

Serial No. 08/958,088
Page 9 of 15

REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed November 17, 2005. In the Office Action, the Examiner notes that claims 31, 47-49 and 67-79 are pending and rejected. By this response, the Applicants have amended claims 31, 47-49 and 67-79.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, Applicants believe that all of the claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response.

Amendments to the Claims

By this response, the Applicants have amended claims 31, 47-49 and 67-79. The amendments to the claims are fully supported by the Application as originally filed. For example, the amendments to the claims are supported at least by page 31, line 14, to page 35, line 26. Thus, no new matter has been added, and the Examiner is respectfully requested to enter the amendments.

35 U.S.C. §112 Rejection of Claim 73

The Examiner has objected to claim 73 under 35 U.S.C. §112, ¶1, as failing to comply with the written description requirement. Applicants respectfully traverse the Examiner's objection.

In particular, the Examiner alleges (emphasis added below):

"The specification as originally filed fails to support instructions comprising 'identities of the unwanted digital programs or channels whereby the removing step uses the generated instructions to remote the unwanted digital programs or channels' as recited in claim 73. Whereas it is recognized that the specification supports filtering out unwanted programs, however the specification is silent on how the filtering occurs as claimed." (page 2 of the 11/17/2005 Office Action)

413446-1

Serial No. 08/958,088
Page 10 of 15

Thus, the Examiner alleges that the Specification fails to support the instructions, having antecedent basis in independent claim 70, comprising "identities of the unwanted digital programs or channels and whereby the removing step uses the generated instructions remove the unwanted digital programs or channels," as previously presented in claim 73.

However, the Applicants respectfully disagree. The Specification provides support for both the instructions comprising the identities of the unwanted digital programs and the removing step using these instructions. For example, the Specification recites (emphasis added below):

"Following the verification checks, the Control CPU 90 sends video configuration data to the configuration logic (function block 212). This configuration data will inform the Combiner 104 of each video signal to select and each signal to de-select." (page 37, lines 16-20)

Thus, the Specification clearly discloses that the CPU sends instructions, i.e., the configuration data, which includes "each video signal to select and each signal to de-select." Therefore, the claimed "instructions comprise identities of the unwanted digital programs" is clearly supported.

Furthermore, the Specification also recites (emphasis added below):

"The configuration block 152 receives instructions from the Control CPU 90. The configuration block 152 instructs the control FIFOs 154 and the logic block 153 on the video signals to be passed. The configuration block 152 configures the Combiner 104 by providing the necessary information to assign FIFOs 156 to handle specific program signals included within the digital video data stream 168." (page 31, lines 22-28)

Thus, the configuration logic, which has received instructions from the CPU as discussed above, is also disclosed by the Specification as using these instructions to instruct control FIFOs and other logic on which video signals are to be passed. Thus, the claimed "whereby the removing step uses the generated instructions remove the unwanted digital programs" is clearly supported.

Serial No. 08/958,088

Page 11 of 15

35 U.S.C. §102 Rejection of Claims 31

The Examiner has rejected claim 31 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,357,276 to Banker et al. (hereinafter "Banker"). Applicants respectfully traverse the rejection.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. The Banker reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

Specifically, the Banker reference fails to teach or suggest at least:

"wherein the combiner means comprises:

a plurality of first-in-first-out storage means, each first-in-first-out storage means for storing packets from a single digital program and outputting the packets to an associated output means;

a plurality of the associated output means connected to a serializing means;

first-in-first-out control means for monitoring the number of video packets input to and output from each of the plurality of first-in-first-out storages, sending a control signal to a computer processing means when an individual first-in-first-out storage means is reaching capacity, and opening and closing the plurality of output means to maintain a constant output of the serializing means;"

as recited in claim 31 as amended.

The Banker reference discloses a television system as follows (emphasis added below):

"A subscription television system of the CATV type is more fully illustrated in FIG. 1. The subscription television system includes a headend 10 and a plurality of subscriber terminals 40, 44 and 48 which are connected over a distribution system 52. As is conventional, the distribution system 52 may include coaxial or optical fiber cable, system amplifiers, line extenders, etc. The headend 10 is under the supervision of a system manager 12 which controls a hardware controller, headend controller 22. A billing computer 11 communicates with the system manager 12 to authorize and transmit transactions to subscribers.

The television or other programming for the subscription system may come from a satellite downlink where it is decoded and demodulated by satellite receivers 18 into a number of channels. Each channel is either applied to a modulator 24 and 30 or a scrambler 26 and 28 which, under the control of the headend controller 22, remodulates the channels to the

Serial No. 08/958,088

Page 12 of 15

frequencies of the local subscription system channel line up. For a premium or restricted channel service (tiered, pay-per-view, or the like), some channels are scrambled by any of the known CATV methods by the scramblers (26, 28) and modulators (24, 30). While the other channels can be transmitted without conversion. The program channels are then frequency division multiplexed onto the distribution system 52 by an RF combiner 34 as a broadband television signal. The plurality of channels of programming can then be transmitted over the distribution system 52 and supplied to each of the subscriber terminals 40, 44, and 48." (column 3, lines 34-64)

Thus, the Banker reference discloses that received programming is applied to a modulator or a scrambler under the control of a headend controller, and subsequently frequency division multiplexed onto a distribution system. However, the Banker reference fails to teach or suggest a plurality of first-in first-out storage means, a plurality of associated output means, and a first-in first-out control means as recited in the claim.

Thus, the Banker reference fails to teach or suggest the Applicant's invention as a whole, as recited in claim 31. As such, Applicants submit that independent claim 31 is not anticipated by Banker and is patentable under 35 U.S.C. §102.

Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

35 U.S.C. §102 Rejection of Claims 47, 48, 67-72, and 74-79

The Examiner has rejected claims 47, 48, 67-72 and 74-79 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,400,401 to Wasilewski et al. (hereinafter "Wasilewski"). Applicants respectfully traverse the rejection.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. The Wasilewski reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

Specifically, the Wasilewski reference fails to teach or suggest at least:

"a plurality of first-in-first-out storages, each first-in-first-out storage storing packets from a single digital program and outputting the packets to an associated output gate;
a plurality of the associated output gates connected to a serializer;

Serial No. 08/958,088

Page 13 of 15

first-in-first-out control logic for monitoring the number of video packets input to and output from each of the plurality of first-in-first-out storages, sending a control signal to the CPU when an individual first-in-first-out storage is reaching capacity, and opening and closing the plurality of output gates to maintain a constant output of the serializer;"

as recited in independent claim 47 as amended.

The Wasilewski reference discloses a cable headend as follows (emphasis added below):

"FIG. 17 is a block diagram of an alternate design of a cable head-end installation 400 for use in the system of the present invention. The alternate cable head-end installation 400 allows cable operators to generate their own multiplex data streams using the services originally provided by various programmers as well as their own local programming. The cable head-end installation 400 comprises a plurality of receivers 402 each for receiving a multiplex data stream from a particular programmer (e.g. programmers 1 to N of FIG. 1). In the cable head-end installation 252 of FIG. 14, the multiplexed data streams received from the programmers were left intact and passed directly to subscribers via cable. As shown in FIG. 17, however, the alternate cable head-end installation 400 comprises a plurality of service demultiplexers 404 for extracting the individual services from each of the multiplexed data streams received at the installation 400. Each of the service demultiplexers 404 may be identical to the service demultiplexer 298 shown in FIG. 16. For each multiplex data stream received at the installation 400, a respective service demultiplexer 404 extracts the services carried in that multiplex data stream in accordance with the method described previously in connection with FIG. 16. Service multiplexers 406, which may be identical to the service multiplexers 24 of FIG. 1, are provided for re-multiplexing the extracted services. As shown, therefore, a cable operator may mix services from different programmers, and may add their own local programs, as illustrated at block 408. Each of the multiplex data streams generated by the service multiplexers 406 is then modulated on its own 6 MHz cable channel using modulators 410. The individually modulated data streams are then passed to a combiner 412 that combines them into a single wide-band signal for transmission to cable subscribers via a cable distribution network. In these latter respects, the cable head-end installation 400 of FIG. 17 functions identically to the cable head-end installation 252 of FIG. 14."

Thus, the Wasilewski reference discloses extracting individual services from multiplexed data streams, mixing services from different programmers, generating multiplex data streams, modulating the multiplex data streams, and passing these

Serial No. 08/958,088

Page 14 of 15

modulated data streams to a combiner for transmission to subscribers. However, the Wasilewski reference fails to teach or suggest the plurality of first-in first-out storages, plurality of associated output gates, and first-in first-out control logic as recited in the claim.

Thus, the Wasilewski reference fails to teach or suggest the Applicant's invention as a whole, as recited in claim 47. Moreover, independent claims 67, 70, 74 and 77 contain substantially similar limitations as those discussed above in regards to claim 47. Accordingly, Applicants submit that independent claims 47, 67, 70, 74 and 77 are not anticipated by Wasilewski and are patentable under 35 U.S.C. §102. Furthermore, claims 48, 68-69, 71, 74-76 and 78-79 depend directly from independent claims 47, 67, 70, 74 and 77 and recite additional limitations thereof. As such, Applicants submit that these dependent claims also are not anticipated by Wasilewski and are patentable under 35 U.S.C. §102.

Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claim 49

The Examiner has rejected claim 49 under 35 U.S.C. §103(a) as being unpatentable over Wasilewski. Applicants respectfully traverse the rejection.

For at least the reasons discussed above with respect to the Examiner's rejection of independent claim 47, the Wasilewski reference fails to teach or suggest Applicants' invention as a whole. Claim 49 depends from independent claim 47 and, thus, inherits the patentable subject matter of independent claim 47, while adding additional elements. Therefore, claim 49 is also non-obvious and patentable over Wasilewski under §103 for at least the same reasons that claim 47 is patentable over Wasilewski under §103. As such, Applicants respectfully request that the Examiner's rejection of claim 49 under 35 U.S.C. §103(a) be withdrawn.

Furthermore, the Applicants respectfully traverse the Examiners Official Notice taken with respect to claim 49. The Applicant respectfully submits that the Official Notice is erroneous at least because "a local insertion device, wherein the local insertion device receives at least one local program and outputs the at least one local program to the combiner, and wherein the combiner combines the output local program

Serial No. 08/958,088
Page 15 of 15

with the selected programs" is not well-known within the context of the independent claim from which this limitation depends. Moreover, the Examiner is respectfully requested to provide documentary evidence to substantiate the Official Notice (see MPEP 2144.03(C)).

CONCLUSION


Thus, Applicants submit that none of the claims, presently in the application, are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Stephen Guzzi, at (732) 383-1405, or Eamon J. Wall, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: _____

2/17/06



Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808